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Dollar Tree Stores, Inc.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

RILEY TARVER and
SYLVIA TARVER, h/w,

Plaintiffs,

v.

DOLLAR TREE STORES, INC.,

Defendants.

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Civil Action
No.
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NOTICE OF REMOVAL

TO: The United States District Court for the Eastern District of Pennsylvania

Under 28 U.S.C. §§ 1332 and 1441, Dollar Tree Stores, Inc., removes this civil action to the United States District Court for the Eastern District of Pennsylvania from the Court of Common Pleas of Philadelphia County. In support of removal, Dollar Tree states the following:

1. Plaintiffs commenced this civil action by filing a Complaint in the Court of Common Pleas, Philadelphia County, on July 14, 2011, case number 110701320. A copy of the Complaint is attached as Exhibit A.

2. Plaintiff Riley Tarver claims that while on the premises of Dollar Tree's store in Morrisville, Pennsylvania, on November 8, 2010, he fell and was

seriously injured due to Dollar Tree's negligence. (Pls.' Compl. ¶¶ 4–11.)

3. The Complaint was served on Dollar Tree on or about July 22, 2011. This Notice of Removal is being filed less than 30 days from the date of service. Thus, this Notice of Removal is filed within the time required by 28 U.S.C. § 1446(b).

4. This action satisfies the requirements for removal under 28 U.S.C. §§ 1332 and 1441 because the citizenships of Plaintiffs and Defendant Dollar Tree are diverse.

a. As averred in paragraph 1 of their Complaint, Plaintiffs are citizens of the State of New Jersey. (Pls.' Compl. ¶ 1.)

b. Dollar Tree is a corporation organized and existing under the laws of the Commonwealth of Virginia with a principal place of business in Chesapeake, Virginia.

5. This action satisfies the requirements for removal under 28 U.S.C. §§ 1332 and 1441 because the amount in controversy exceeds \$75,000.

a. Plaintiffs claim that as a result of Dollar Tree's negligence, Riley Tarver suffered "serious, painful and permanent" bodily injuries to his "head, neck, back, body and limbs, bones, cells, nerves, tissues, muscles and functions" including "multiple fractures of the left hip requiring surgical intervention . . . lower back sprain and strain and severe neck pain." (Pls.' Compl. ¶¶ 8, 15.) As a result of these alleged injuries, Mr. Tarver purportedly suffered and will continue to suffer "great physical pain and mental anguish" and has expended and will continue to expend money for medical care. (Pls.' Compl. ¶¶ 16, 17.) Mr. Tarver claims damages in excess of \$50,000. (Pls.' Compl. Count I.)

b. Plaintiffs claim that as a result of Dollar Tree's negligence, Sylvia Tarver has been and will for an indefinite time in the future be deprived of her husband's love and consortium "all to her great detriment and loss." (Pls.'

Compl. ¶ 21.) Mrs. Tarver separately claims damages in excess of \$50,000. (Pls.' Compl. Count II.)

6. Diversity of citizenship exists between Plaintiffs and Defendant. Diversity of citizenship existed at the time this action was commenced and continues at the time of filing of this Notice. The amount in controversy, exclusive of interest and costs, is in excess of \$75,000. Therefore, this Court has original jurisdiction over this action and Dollar Tree is entitled to removal under 28 U.S.C. §§ 1332 and 1441.

7. Removal and venue is proper in the United States District Court for the Eastern District of Pennsylvania, Philadelphia Division, under 28 U.S.C. 1441(a) as this is the federal district and division embracing the place where the action was filed in state court.

8. A copy of this Notice of Removal is being filed with the Court of Common Pleas, Philadelphia County, as provided by § 1446(b).

WHEREFORE, the above-captioned action now pending in the Court of Common Pleas, Philadelphia County, is removed to this Court.

Date: August 11, 2011

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BY: 
Michael F. Metzger
Attorneys for Defendant
Dollar Tree Stores, Inc.